

ABANDONMENT PROPERTY

A rental unit can be considered abandoned if:

- 1) The tenant is no longer living in the premises, AND
- 2) The tenant has shown or expressed an intent to relinquish the premises.

Proof of intent to relinquish may be circumstantial and may be based on the conduct of the renter.

Even if the rental unit itself is abandoned under the above criteria, the tenant's property should not be considered abandoned UNLESS:

- 1) The tenant has not contacted the landlord for at least 30 days, AND
- 2) There are no communications or circumstances which would indicate to the landlord that the tenant does not wish to abandon the property.

If a tenant abandons rental premises without paying rent, the landlord is free to take possession of those premises without going through the judicial eviction process. However, even in these apparently straightforward situations, landlords must follow the procedures in *Colorado Revised Statutes §38-20-116* when disposing of any personal property of the tenants left behind. Briefly, the landlord must provide a 15-days written notice to the tenant, mailed to the tenant's last known address (which if the landlord does not have a forwarding address, may be the abandoned unit), stating that the landlord intends to dispose of or sell the abandoned property. The notice must be mailed by registered or certified mail, return receipt requested, and the landlord must retain the notice and the signed returned receipt, or the returned unopened envelope containing the notice if it is undeliverable, for one year. If the notice is returned as undeliverable, the landlord must publish the notice for one day in a newspaper of record for the county where the property is located (the *Longmont Times Call* is a newspaper of record for Boulder County). *C.R.S. §38-20-116(2)*.

If a tenant abandons a rental unit while under a lease, the tenant is responsible for the amount of rent due for the remainder of the lease. As in any other broken lease situation, the landlord has the obligation to mitigate damages by making a reasonable attempt to re-rent the unit as soon as possible.

Source:

[Colorado Statutes/TITLE 38 PROPERTY - REAL AND PERSONAL/LIENS/ARTICLE 20 LIEN ON PERSONAL PROPERTY/PART 1](#)

[LIEN ON PERSONAL PROPERTY/38-20-116. Abandoned property defined - notice of sale.](#)

[38-20-116. Abandoned property - notice of sale - definitions](#)

(1) Property is presumed to be abandoned if the owner has failed to contact the lienholder for a period of not less than thirty days and the lienholder, in good faith, is without knowledge of any evidence indicating that the owner does not intend to abandon the property.

(2) At least fifteen days prior to selling or otherwise disposing of abandoned property, the lienholder shall notify the owner of the proposed manner and date of disposition by transmitting said notice to the owner's last known address by registered or certified mail, return receipt requested, signed by the addressee only. The lienholder shall maintain in his records for a period of one year a copy of said notice together with the return receipt signed by the addressee, or, if said notice is returned unclaimed, said notice and the proof of return unclaimed shall be so maintained. If the written notice is returned unclaimed, the lienholder shall publish said notice at least one day in a newspaper in the county in which the property is located or, if no newspaper is published in that county, then a newspaper in some adjoining county.

Source: **L. 75:** Entire section added, p. 1418, § 7, effective April 24. **L. 98:** (3) added, p. 365, § 5, effective September 30. **L. 2008:** (2.5) added, p. 539, § 1, effective January 1, 2009.

ANNOTATION

Law reviews. For article, "The Rights of Landlords in Tenants' Personal Property", see 57 Den. L. J. 685 (1980).

Section [42-4-2101](#) prevails over abandonment. Removal and storage of abandoned vehicles is specifically provided for in [§42-4-2101](#) and that special section will prevail over the more general abandonment provisions in this section. Calabrese v. Hall, 42 Colo. App. 347, 593 P.2d 1387 (1979).

Lienholder liable if owner not supplied notice of sale. Failure of lienholder to provide owners the notice of sale required by subsection (2) makes lienholder liable to the owners pursuant to [§38-20-107 \(2\)](#). Tarantino v. Martin, 43 Colo. App. 308, 602 P.2d 906 (1979).